

# **EXHIBIT 5**

**FINANCIAL OVERSIGHT AND MANAGEMENT BOARD  
FOR PUERTO RICO**



*José B. Carrión III*  
Chair

Members

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Carlos M. García  
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José R. González  
Ana J. Matosantos  
David A. Skeel, Jr.*

*Natalie A. Jaresko*  
Executive Director

**BY ELECTRONIC MAIL**

November 15, 2019

The Honorable Wanda Vázquez Garced  
Governor of Puerto Rico  
La Fortaleza

Dear Governor Vázquez Garced:

We have reviewed, and write to you in connection with, Act 82-2019, Act 90-2019, and Act 138-2019, pursuant to Section 204(a) of PROMESA.

**Act 82-2019**

Act 82-2019 creates a “Regulatory Law for Pharmacy Benefits and Services Administrators” and establishes an “Office of the Regulatory Commissioner of Pharmacy Benefits and Services Administrators” in the Puerto Rico Department of Health (“PRDH”) to further regulate Pharmacy Benefit Managers (“PBMs”), Pharmacy Benefit Administrators (“PBAs”) and any similar entity that contracts services from pharmacies in Puerto Rico, among other purposes.

While Act 82-2019 was signed into law on July 30, 2019, the Oversight Board has not received the formal cost estimate and certification of compliance or noncompliance as required by PROMESA Section 204(a)(2).

Moreover, the Oversight Board believes that there is possible federal preemption of the subject matter covered by Act 82-2019 under the statutory provisions of Title 42 of the U.S. Code and related Code of Federal Regulations.

The Oversight Board looks forward to receiving the required cost estimate and certification of compliance or noncompliance for Act 82-2019 and requests that you provide an explanation as to why Act 82-2019 is not preempted.

**Act 90-2019**

Act 90-2019, among other matters, amends Article 19.150 of Act 77-1957, known as the “Insurance Code of Puerto Rico” (“Act 77-1957”), to prohibit a Medicare Advantage health

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service organization or its representative to agree with a service provider to pay a rate lower than the one established for that year by the Centers for Medicare and Medicaid Services (“CMS”) for the services provided as Medicare Advantage. In addition, Act 90-2019 prohibits all such health service organizations or their representatives, including PBMs and PBAs, from cancelling or terminating a contract duly established with a provider or health professional without just cause.

The Oversight Board received Act 90-2019 along with the corresponding compliance certification required by PROMESA Section 204(a) (the “Compliance Certification”), past the statutorily mandated 7 business-days period. As set forth more fully below, this is not in compliance with PROMESA Section 204(a) with respect to Act 90-2019.

### **Act 138-2019**

Act 138-2019 adds Article 31.031 and Article 31.032 to Chapter 31 of Act 77-1957 to establish that a health service organization cannot deny an application from a doctor, hospital, primary service center... or any other person authorized in Puerto Rico to provide health care services to become a provider of the same when they meet all the necessary requirements...; as well as to establish that no health insurance organization, insurer... or any other medical plan can include in any contract or stipulate with a health provider a unilateral cancelation of the contract.

The Oversight Board received Act 138-2019 and its corresponding Compliance Certification, required by PROMESA Section 204(a), past the statutorily mandated 7 business-days period.

Having reviewed Act 90-2019, Act 138-2019 and their respective Compliance Certifications, the Oversight Board concludes that the Compliance Certification for both statutes fail to provide the formal estimate of the fiscal impact as required under paragraph (2)(A) of PROMESA Section 204(a). Further, the Oversight Board is also of the opinion that the subject matters covered by Act 90-2019 and Act 138-2019 are preempted by the statutory provisions of Title 42 of the U.S. Code and related Code of Federal Regulations.

In view of the foregoing, we hereby respectfully request that a formal estimate of the impact each Act will have on expenditures and revenues, including the impact on the government’s medical health insurance plan (“Vital”), as required by PROMESA Section 204(a)(2)(A). Further, we ask for an analysis of Acts 82-2019, 90-2019 and 138-2019 in relation to the corresponding federal statutes to ascertain there are no conflicting provisions that may jeopardize the grant of federal funds to the PRDH.

Should the Oversight Board determine that you have failed to comply with our directive under Section 204(a)(4)(A), or that a law impairs or defeats the purposes of PROMESA, as determined by the Oversight Board, we reserve the right to take such actions as we consider necessary, consistent with Section 204(a)(5), including preventing the enforcement or application of Act 82-2019, Act 90-2019 and Act 138-2019.

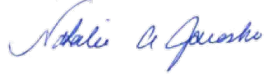
Please submit the required information by no later than November 22, 2019.

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November 15, 2019

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Sincerely,

A handwritten signature in blue ink, appearing to read "Natalie A. Jaresko".

Natalie A. Jaresko

CC: Mr. Elí Díaz Atienza  
Mr. Omar J. Marrero Díaz